IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16572 of 2004

Between:

V.Venkataswamy S/o. Ch.Narasimha
R/o. H.No.23-314 Bhudevi Nagar Extn.Venkatapuram
Secunderabad.

..... PETITIONER

AND

1 The Convener EDCET-2004 o/o The Commissioner and Director of School Education, A.P. Hyderabad (AP)
2 The Secretary, Higher Education, Govt of AP Secretariat, Hyderabad (AP)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a direction, order or a writ, more appropriately one in the nature of a writ of Mandamus directing/declaring the action of the respondents herein declare the action of 1st respondent herein of refusing to accept the candidature of the petitioner herein for taking Entrance Examination EDCET-2004 being organized by him on the ground of a policy matter laid down by the 2nd Respondent herein (ie., The State of AP) as being violative of petitioners right against hostile discrimination prohibited under Article 14, his right to education guaranteed as a facet of Article 21 of the Constitution of India and therefore Ultra Vires." .

Counsel for the Petitioner : MR. VISHAL SAXENA

Counsel for the Respondents : GP FOR EDUCATION

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16572 OF 2004

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ORDER :

The petitioner is an engineering graduate, having obtained a Bachelor Degree in Mechanical Engineering from Jawaharlal Nehru Technological University in the year 2002. He states that in pursuance of a notification issued by the Government of A.P. proposing to conduct Education Common Entrance Test (EDCET) 2004 relating to B.Ed. Regular Course on 06-08-2004, he submitted his application after completing all the formalities on 27-08-2004, well within the time prescribed. However, on 08-09-2004 the petitioner was intimated by the office of the 1st respondent – Convener, EDCET that his application was rejected since B.Tech. candidates are not eligible. The next day when the petitioner visited the office of the 1st respondent to make further enquiry, his application form itself was returned reiterating that B.Tech. candidates are not eligible for EDCET-2004. Aggrieved by the said action of the 1st respondent, this Writ Petition is filed seeking a declaration that the action of the 1st respondent in rejecting the candidature of the petitioner to

appear for the EDCET-2004 is arbitrary, illegal and discriminatory being violative of the Article 14 of the Constitution of India.

The contention of the petitioner is that either in the eligibility criteria for the candidates desirous of taking the EDCET as specified in the Instructions Booklet issued by the 1st respondent or in the application form furnished by the 1st respondent there is no clause excluding the candidates from engineering stream. On the other hand, column No.12 of the application form under which the applicant has to specify the qualifying examination passed by him makes provision even for *"Others"* apart from B.A., B.Sc., B.Com., BHSc, BBM & BCA degree-holders. Thus, according to the petitioner, there is absolutely no justifiable reason in rejecting the application of the petitioner on the ground that he is an engineering graduate. The petitioner also contends that there is no rationale in discriminating a degree- holder in engineering *vis-a-vis* B.A., B.Sc., B.Com., BHSc, BCA & BBM for the purpose of eligibility to appear Education Common Entrance Test, which is nothing but stepping stone to the teaching profession.

The first respondent filed a counter-affidavit stating that as per G.O.Ms.No.72, Education (SE.Trg.1) Department, dated 5-7-2004 under which the Rules were prescribed for conduct of Education Common Entrance Test (EDCET) for entry into B.Ed. courses offered in the Colleges of Education in the State only those candidates who have passed B.A./BSc/BSc (Home Science) /B.Com./B.C.A./B.B.M. or who have appeared for the final year examination in any of the said courses at the time of making the application for EDCET alone are eligible to apply. Hence, the 1st respondent has not accepted the application of the petitioner. It is also explained that the box provided in column No.12 of the Application Form is for the purpose of filling up information of those candidates who have obtained equivalent qualification to that of the nomenclature of qualifications prescribed in the Rules i.e., B.A., B.Sc., B.Sc. (Home Science), B.Com., B.C.A., B.B.M., etc. Under column No.12 of the application form, boxes are provided for each of the qualifying examination and the extra box named "others" is also provided which has to be filled by those candidates who have passed the equivalent examination with different Nomenclature other than those mentioned in the boxes 1 to 6. This has to be read in the context that all the

other (6) six courses shown in the boxes pertain to only three year courses and not Professional Courses. It is also stated that the eligibility criteria prescribed is a policy decision of the Government and the same cannot be questioned and therefore the writ petition is misconceived and liable to be dismissed.

I have heard the learned Counsel for both the parties and perused the material on record.

In exercise of the powers conferred by Sections 3 and 15 of the A.P. Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (A.P. Act 5 of 1983) and in supersession of the earlier Rules prescribed under G.O.Ms.No.38, dated 27-03-2003, the Governor of Andhra Pradesh made A.P. Conduct of Education Common Entrance Test for Admission into B.Ed. Course Rules, 2004 (for short, 'the Rules'). Rule 3 of the said Rules issued under G.O.Ms.No.34, Education (SE.Trg.1) Department, dated 5-7-2004 provides for the eligibility for appearing to the EDCET or EDCET-AC. The sub-Rule (iii) of Rule 3 which deals with educational qualification runs as under:

> *"3. Eligibility for appearing to the EdCET or EdCET-AC:*
>
> *Candidates satisfying the following requirements shall be eligible to appear for EdCET or EdCET-AC.*
>
> *(i)… … … …*
>
> *(ii)… … … …*
>
> *(iii) Educational Qualifications :*
>
> *(a) Candidates should have passed BA/B.Sc/B.Sc (Home Science)/B.Com/BCA/BBM or should have appeared for the final year Examination in any of these courses at the time of making the application of EdCET/EdCET-AC."*

In the instructions booklet for EDCET-2004 issued by the 1st respondent for the academic year 2004-05, clause-3(iii) which provides for the educational qualifications of the candidates who are eligible to appear for the EDCET-2004 runs as under :

"(iii) Educational Qualifications :

(a) Candidates should have passed BA/B.Sc/B.Sc (Home Science)/B.Com/BCA/BBM or should have appeared for the final year Examination in any of these courses at the time of making the application of EdCET-2004. However, he/she should be qualified by the time of admission and required to produce marks memo and pass certificate."

From the above, it is clear that either under the Statutory Rules or as per the information furnished in the instructions booklet, the engineering graduates are not made eligible to appear for the EDCET-2004. Only those candidates who have passed the six qualifying examinations specified in Rule-3 (iii) (a) of the Rules made under G.O.Ms.No.34, dated 5-7-2004 are made eligible to appear for the EDCET. Admittedly, the petitioner does not satisfy the said eligibility criteria since he has not passed none of the qualifying examinations specified under Rule 3 (iii) (a) of the Rules.

It is also relevant to note that as per Rule 4(ii) of the Rules the Convener of EDCET shall give a notification calling for the applications in the prescribed form from the candidates satisfying the eligibility criteria as laid down in Rule 3 and admittedly the notification in question was issued only in terms of the said Rules.

The petitioner did not choose to challenge the validity of the said Rule 3(iii)(a) of the Rules on any ground whatsoever, nor sought a declaration that the non-inclusion of the Engineering Degree in the eligibility criteria prescribed under the Rules is unreasonable or arbitrary, but only questioned the action of the respondents in not accepting his application.

The law is well settled that the fixation of the eligibility criteria for admission to the courses of study offered by the Government is an academic question and this Court while exercising the jurisdiction under Article 226 of the Constitution of India will not sit in Appeal against such decision in academic matters. This court does not possess the expertise whether the Bachelor Degree in Engineering can be considered as an equivalent to the other qualifying examinations prescribed under

Rule 3(iii)(a) of the Rules and therefore no Mandamus as such can be issued compelling the respondents to permit the petitioner to appear for the EDCET-2004 on the basis of the Engineering Degree possessed by him.

I do not also find any merit in the further contention of the learned Counsel for the petitioner on the basis of Column No.12 of the application form in which there is a provision to specify as to "other" qualifying examinations. As rightly contended by the learned Government Pleader, the said column relates to the examination equivalent to the qualifying examination specified under Rule 3 (iii) (a) of the Rules. At any rate, the clause in the application form cannot be read contrary to the statutory rules and on the basis of such a clause, the petitioner who does not possess the requisite eligibility criteria cannot claim any right to appear for the entrance examination.

For the aforesaid reasons, the Writ Petition is devoid of any merit and the same is accordingly dismissed. No costs.

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02nd February, 2005.

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Note:

Issue C.C. in one week.

(B/o)

gbs

To

1 The Convener, EDCET-2004 o/o The Commissioner and Director of School Education, A.P. Hyderabad (AP)
2. The Secretary, Higher Education, Govt of AP Secretariat, Hyderabad (AP)

3. 2 CCs to G.P. for Education, High Court of AP Bldgs, Hyderabad (OUT).

4. 2 CD copies